THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

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January 27, 2011

BY E.C.F.
The Honorable Steven M. Gold
Chief United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Maurice Phillips v. The City of New York, et al.,
10 CV 4731 (ERK) (SMG)

Dear Chief Magistrate Judge Gold:

I am the Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York assigned to the above-referenced case. I write, on behalf of defendants City of New York ("City") and Police Officer Paul McCarthy ("defendants"), and in response to plaintiff's letter requesting leave to file an amended complaint in this action. Defendants respectfully oppose plaintiff's request.

First, defendants write to clarify their position. Defendants have not "withheld their consent" or "refus[ed] to consent," as plaintiff's counsel contends. By e-mail dated January 25, 2011, plaintiff's counsel requested defendants' consent to file an amended complaint "to add as defendants the additional officers [defendants'] disclosed yesterday." (Plaintiff's Counsel's E-mail dated January 25, 2011, annexed hereto as Exhibit "A"). I responded to plaintiff's counsel on January 26, 2011. I asked plaintiff's counsel to forward me a copy of the proposed amended complaint, so that I could make an informed decision as to whether defendants could consent or not. I further suggested that, in the event that defendants consented, the parties could sign a stipulation to that effect. In two subsequent telephone conversations with plaintiff's counsel, I explained that defendants could not reasonably be expected to consent without first reviewing the proposed amendments.

Plaintiff's counsel, however, refused to provide defendants with the proposed amended complaint, despite the fact that such a proposed amended complaint was apparently readily available, as it was filed with the Court within a few hours of our second telephone conversation. Instead, during our telephone conversations, plaintiff's counsel impugned my "behavior" thus far, and now moves the Court for leave to file an amended complaint. Plaintiff's present application, however, curiously fails to mention that he only requested defendants' consent to "file an amended complaint *to add as defendants the additional officers [defendants'] disclosed yesterday*." (Exh. A) (emphasis added). In neither his e-mail, nor our two subsequent telephone conversations, did plaintiff's counsel ever mention that he was seeking to file an amended complaint which adds two new causes of action not previously pled. (See Proposed Am. Compl., at ¶¶ 50-54, 55-59.) Such a discrepancy between what plaintiff's counsel implied was in the amended complaint and what was actually contained in the proposed amended complaint is precisely the reason why defendants' insisted on seeing a copy of the proposed amended complaint before deciding whether or not they could consent to it. Defendants therefore respectfully submit that, even if they had given uninformed consent, it would not have been valid, given plaintiff's counsel's complete omission of the fact that he also sought to add two new claims.

Furthermore, while the basis of plaintiff's application appears to be that he should have been able to file an amended complaint naming additional defendants "as of right," any amended complaint would still be subject to a motion to dismiss, and thus, any futile claims would not survive regardless of when the amended complaint was filed. See Jeremy Wilson v. City of New York, No. 06 CV 229 (ARR)(VVP), 2008 U.S. Dist. LEXIS 35461 at *22-23 (E.D.N.Y. Apr. 29, 2008) (noting that the Magistrate Judge's ruling denying plaintiff's motion for leave to file an amended complaint "benefitted both parties by saving them the time and expense associated with the motion to dismiss which would have almost certainly followed the filing of the proposed amended complaint."). Moreover, plaintiff's counsel fails to mention why he needed the names of additional officers who responded to the scene before he could file an amended complaint adding these two new claims against defendant McCarthy.

In any event, plaintiff's application should be denied. The Court has the discretion to deny leave to amend a complaint if the amendment would be futile, cause undue delay, or cause undue prejudice. See Forman v. Davis, 371 U.S. 178, 182 (1962); Min Jin v. Metropolitan Life Ins. Co., 310 F.3d 84, 101 (2d Cir. 2002). A motion to amend the complaint should be denied if such amendment would be futile. Dluhos v. Floating and Abandoned Vessel Known as "New York", 162 F.3d 63, 69 (2d Cir. 1998). Plaintiffs proposed allegations against Sergeant Hopkins, Police Officer Arias, Police Officer Priber, Police Officer Nika, and Police Officer Lafleur are insufficient as a matter of law, because they fail to specify facts which plausibly support a claim that each of these officers directly participated in a constitutional violation. In Ashcroft v. Iqbal, 129 S. Ct. 1937, 1948 (2009), the Supreme Court reiterated that personal involvement is required for § 1983 liability to attach, and that "a plaintiff must plead that each government official, through the official's own individual actions, has violated the constitution." 129 S. Ct. 1937, 1948 (2009). Accordingly, after Iqbal, an individual can only be held liable on a § 1983 claim if that individual "participates directly in the alleged constitutional violation or if that [individual] creates a policy or custom under which unconstitutional practices occurred." Bellamy v. Mt. Vernon Hosp., 07 Civ. 1801 (SAS) 2009 U.S. Dist. LEXIS 54141 at *27-*28 (S.D.N.Y. June 26, 2009). Rather than alleging facts to state a plausible claim against these officers, plaintiff's counsel refers to them collectively as "the individual defendants." Moreover, the allegations that that "the other individual defendants arrived and also unlawfully entered plaintiff's apartment" is especially spurious, given that defendants January 24, 2011 letter to plaintiff only identified two (2) additional officers who entered the apartment (Defendants' Rule 26(a)(1)(A)(i) Supplement, dated January 24, 2011, annexed hereto as Exhibit "B."). Accordingly, to the extent that ¶ 29 of the proposed amended complaint can be read as alleging that all of the officers plaintiff seeks to add as defendants entered plaintiff's apartment, it is unclear whether plaintiff has a good faith basis to allege that Sergeant Hopkins, Police Officer Nika and Police Officer Lafleur entered the apartment and witnessed the alleged use of excessive force by defendant McCarthy.

In addition, defendants respectfully assert that plaintiff has not alleged facts to make any claim for false arrest against Sergeant Hopkins and Police Officers Arias, Priber, Nika and Lafleur plausible. In the proposed amended complaint, plaintiff asserts that, at the time the "other individual defendants" purportedly entered plaintiff's apartment, plaintiff was holding onto a pole as defendant McCarthy was pulling on him in attempt to get him to let go of the pole. (Proposed Am. Compl., at ¶¶ 28-30.) While plaintiff contends that defendant McCarthy did not have probable cause to arrest him, even if this is true, there are no facts in the complaint that even suggest that Hopkins, Arias, Priber, Nika and Lafleur had any independent basis to know what went on between defendant McCarthy and plaintiff prior to their alleged arrival on the scene. Accordingly, in light of the situation that allegedly confronted them upon their purported entry into the apartment, it would be reasonable for them to believe that defendant McCarthy had probable cause to arrest plaintiff, and thus any claim for false arrest, or failure to intervene in an allegedly false arrest against these individuals, would be futile. See, e.g., Anderson v. Branen, 17 F.3d 552, 557 (2d Cir. 1994)("An officer who fails to intercede is liable for the preventable harm caused by the actions of the other officers where that officer *observes or has reason to know* . . . that a citizen has been unjustifiably arrested.") (emphasis added); Mayer v. City of New Rochelle, No. 01 Civ. 4443 (MBM), 2003 U.S. Dist. LEXIS 8761 at *2-4, *19, n. 13 (S.D.N.Y. May 23, 2003) (granting summary judgment on false arrest claims to officers who responded to the scene of the arrest but did not actually participate in the arrest); Shaw v. City of New York, No. 95 Civ. 9325 (AJP), 1997 U.S. Dist. LEXIS 4901, at *10 (S.D.N.Y. Apr. 14, 1997) (finding that arresting officers possessed probable cause where they relied solely on statements of a fellow officer even though there was a dispute of fact as to whether the fellow officer possessed probable cause); Furlow v. City of New York, No. 90 Civ. 3956 (PKL), 1994 U.S. Dist. LEXIS 18316,at *20-22 (S.D.N.Y. Dec. 21, 1994) (motion to amend complaint to add false arrest claim against two officers denied as futile since the officers plaintiff sought to name did not observe the purported crime and instead relied upon the statements of another officer who claimed to have observed plaintiff commit the offense). See also Anthony v. City of New York, 339 F.3d 129, 138 (2d Cir. 2003)("Plausible instructions from a . . . fellow officer support qualified immunity where, viewed objectively in light of the surrounding circumstances, they could lead a reasonable officer to conclude that the necessary legal justification for his actions exists (e.g. a warrant, probable cause, exigent circumstances).") (quotation and citations omitted). Put simply, there are no facts in the proposed amended complaint showing that Hopkins, Arias, Priber, Nika and Lafleur had reason to know that plaintiff was arrested in the absence of probable cause (See Proposed Am. Compl. at ¶¶ 17-41), and accordingly any motion to amend the complaint to add a false arrest claim against them should be denied as futile.

Furthermore, plaintiff fails to plausibly allege a malicious abuse of process claim against any defendants. Under New York law, a claim for malicious abuse of process will lie against a defendant who "(1) employs regularly issued legal process to compel performance or forbearance of some act (2) with intent to do harm without excuse or justification, and (3) in order to obtain a collateral objective that is outside the legitimate ends of the process." Cook v. Sheldon, 41 F.3d 73, 80 (2d Cir. 2004). Here, plaintiff's complaint posits, in a conclusory fashion, that the individual defendants possessed several collateral objectives in effectuating plaintiff's arrest: "to frame plaintiff for crimes he had not committed, improve their arrest statistics, further their careers and cover up their assault of [plaintiff]." (Proposed Am. Compl. at ¶ 57.) Yet, plaintiff's proposed amended complaint pleads no facts from which these several collateral objectives could plausible be inferred. (See Proposed Am. Compl. at ¶¶ 17-41). Moreover, the complaint alleges no facts to plausibly support this claim as against Hopkins, Arias, Priber, Nika, and Lafleur. Indeed, even according to the proposed amended complaint, these officers (1) entered the apartment, (2) observed the alleged force, and (3) did not permit plaintiff to dress before he left the apartment. (See Proposed Am. Compl. at ¶ 29, 33, and 34.) Thus, even on its own terms, the proposed amended complaint fails to allege such a claim against them at the outset, as it does not even suggest, let alone state, that these individuals employed regularly issued legal process to compel performance or forbearance of some act.

In any event, these vague and conclusory allegations of an improper purpose are insufficient to survive a motion to dismiss. See Brandon v. City of New York, 705 F. Supp. 2d 261, 275 (S.D.N.Y. 2010) (dismissing abuse of process claim since "[t]here is neither any explicit charge of extortion, blackmail, retribution, or similar extraneous harmful goal, nor are there any facts pleaded upon which an inference of such a motive on the part of Defendants could reasonably be inferred."); Crews v. County of Nassau, No. 06 CV 2610 (JFB), 2007 U.S. Dist. LEXIS 94597, at *40 (E.D.N.Y. Dec. 27, 2007) (holding plaintiff's allegation that defendants were motivated "by their desire to cover up their misdeeds, but not that defendants had a purpose other than to prosecute [plaintiff]" insufficient to survive 12(c) motion); Brewster v. Nassau Cty., 349 F. Supp. 2d 540, 550 (E.D.N.Y. 2004) (even assuming that allegations that, *inter alia*, defendants "'. . . targeted [plaintiff] for a crime he did not commit,' 'personally intended to violate and harm [plaintiff] and his family personal and business acts of life,' [and] 'targeted claimant and his family for acts of unknown reasons,'" would, taken together, "suffice to state an improper purpose, 'they are simply too vague and conclusory to support a cause of action for abuse of process.'") (citation omitted).

Plaintiff's proposed amended complaint also newly asserts a claim of denial of his constitutional right to fair trial. (See Proposed Am. Compl. at ¶¶ 50-54.) In order to state a claim for denial of a fair trial, however, plaintiff must plausibly allege that defendants created false evidence and forwarded that information to prosecutors. Ricciuti v. New York City Transit Auth., 124 F.3d 123, 130 (2d Cir. 1997). Again, plaintiff has failed to provide sufficient factual matter to state a plausible claim for relief. Instead, he merely avers that "plaintiff was arraigned on fabricated charges." (See Proposed Am. Compl. at ¶¶ 6.) Moreover, a "claim under § 1983 for violation of the right to a fair trial lies where a police officer 'creates false information likely to influence a jury's decision.'" Brandon, 705 F. Supp. 2d at 276 (quoting Ricciuti v. New York City Transit Auth., 124 F.3d 123, 130 (2d Cir. 1997)). Plaintiff does not assert any such allegation here. It was plaintiff himself who accepted an adjournment in contemplation of dismiss with respect to the underlying criminal matter. Even assuming that the police officers had fabricated evidence, plaintiff's independent and informed decision to accept that disposition would negate any allegation that he was denied his right to a fair trial. Cf. Barmapov v. Barry, No. 09 CV 03390 (RRM), 2011 U.S. Dist. LEXIS 768, at *21-22 (E.D.N.Y. Jan. 3, 2011) (dismissing denial of right to fair trial claim since cause of depravation of liberty was plaintiff's decision to plead guilty, not any allegedly fabricated evidence). In any event, even if plaintiff could make out such a claim against defendant McCarthy, the complaint is devoid of any facts that show what evidence Hopkins, Arias, Priber, Nika, and Lafleur supposedly fabricated, nor are there any facts to show that any of these individuals forwarded any evidence whatsoever to the district attorney's office. Moreover, plaintiff does not have a good faith basis to make any such allegations against Hopkins, Arias, Priber, Nika, and Lafleur, since both the criminal court complaint and the complaint room screening sheet, which were produced to plaintiff on January 3, 2011, show that all of the facts that form the basis of the criminal charges brought against plaintiff came from defendant McCarthy. (See Criminal Court Complaint, annexed hereto as Exhibit "C;" Complaint Room Screeing Sheet, annexed hereto as Exhibit "D.") In fact, it appears that the events described in the criminal court complaint occurred during the period of time before plaintiff alleges Hopkins, Arias, Priber, Nika, and Lafleur entered his apartment. (Exh. C; Exh. D.)

Finally, defendants respectfully submit that plaintiff's complaint fails to plausibly allege an unlawful entry claim against Hopkins, Arias, Priber, Nika, and Lafleur. Notwithstanding the fact that Arias and Priber were the only individuals identified by defendants as having actually entered the apartment, Hopkins, Arias, Priber, Nika, and Lafleur responded to the scene in response to a call for assistance by McCarthy. Although "warrantless searches inside a home are presumptively unreasonable[,] . . . police officers may enter a dwelling without a warrant to render emergency aid and assistance to a person whom they reasonably believe to be in distress and in need of that assistance." Tierney v. Davidson, 133 F.3d 189, 196 (2d Cir. 1998) (internal citations and quotations omitted); see also Mincey v. Arizona, 437 U.S. 385, 392 (1978) ("Numerous state and federal cases have recognized that the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid."). Here, because these Hopkins, Arias, Priber, Nika, and Lafleur were responding to a call for additional units by McCarthy, it is more plausibly that they believed McCarthy to be in need of immediate assistance. Thus, even if each of them did enter the apartment, such entry would not be unreasonable under the Fourth Amendment. As such, no unlawful entry claim can lie against them.

In light of the above, defendants respectfully request that plaintiff's motion for leave to amend his complaint be denied.

I thank the Court for its time and consideration in this regard.

Respectfully submitted,

/s/

Philip R. DePaul
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Gabriel P. Harvis, Esq., *Attorney for Plaintiff* (by E.C.F.)

Exhibit A

DePaul, Philip

From: Gabriel Harvis [gharvis@harvisandsaleem.com]

Sent: Tuesday, January 25, 2011 4:09 PM

To: DePaul, Philip

Subject: Re: Maurice Phillips v. The City of New York, et al., 10 CV 4731 (ERK) (SMG) - Letter Supplementing Defendants Fed. R. Civ. P. 26(a)(1)(A)(i) Disclosures

Hi Phil,

Pursuant to FRCP 15(a)(1)(B), I write to request your consent for plaintiff to file an amended complaint to add as defendants the additional officers you disclosed yesterday. Please let me know if you will consent to the filing.

Thanks,
Gabe

Download vcard
Gabriel P. Harvis, Esq.
Harvis & Saleem LLP
305 Broadway, 14th Floor
New York, NY 10007
Tel (212) 323-6880
Fax (212) 323-6881
www.harvisandsaleem.com

On Jan 24, 2011, at 5:20 PM, DePaul, Philip wrote:

> Gabe,
>
> Please see the attached letter. Please let me know if you have any questions or concerns.
>
> Sincerely,
>
> **PHILIP R. DEPAUL**
> Assistant Corporation Counsel
> Special Federal Litigation
> New York City Law Department
> 100 Church Street, Room 3-208
> New York, NY 10007
> Phone: (212) 788-0823
> Fax: (212) 788-9776
> pdepaul@law.nyc.gov
>
> <Maurice Phillips v. The City of New York, et al., 10 CV 4731 (ERK) (SMG) - Letter Supplementing Defendants Fed. R. Civ. P. 26(a)(1)(A)(i) Disclosures.pdf>

Exhibit B

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

PHILIP R. DePAUL
Assistant Corporation Counsel
phone: (212) 788-0823
fax: (212) 788-9776
email: pdepaul@law.nyc.gov

January 24, 2011

BY ELECTRONIC MAIL
Gabriel P. Harvis, Esq.
Harvis & Saleem, LLP
Attorneys for Plaintiff
305 Broadway, 14th Floor
New York, New York 10007
gharvis@harvisandsaleem.com

Re: Maurice Phillips v. The City of New York, et al.,
10 CV 4731 (ERK) (SMG)

Dear Mr. Harvis:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, and the attorney for defendants City of New York ("City") and Police Officer Paul McCarthy in the above-referenced case. In accordance with the Court's Order dated January 4, 2010, and as supplement to defendants' FED. R. CIV. P. 26(a)(1)(A)(i) disclosures dated January 3, 2010, below please find, on information and belief, the names, shield numbers and current service addresses of police officers who may have discoverable information concerning the incident alleged in plaintiff's complaint:

1. Police Officer Paul McCarthy, Shield No. 21020[1]
   63rd Precinct
   1844 Brooklyn Avenue
   Brooklyn, New York 11210 (*arresting officer)*

[1] Defendants request that any communications with police officers, other than service of process, be made through counsel.

2. Sergeant Clarence Hopkins, Shield No. 2624
   71st Precinct
   421 Empire Boulevard
   Brooklyn, New York 11225 (*responded to a radio call for additional units by Police Officer McCarthy on May 31, 2010.)*

3. Police Officer Eliot Arias, Shield No. 1808
   71st Precinct
   421 Empire Boulevard
   Brooklyn, New York 11225 (*responded to a radio call for additional units by Police Officer McCarthy on May 31, 2010 and entered the second floor apartment.)*

4. Police Officer Daniel Priber, Shield No. 23665
   71st Precinct
   421 Empire Boulevard
   Brooklyn, New York 11225 (*responded to a radio call for additional units by Police Officer McCarthy on May 31, 2010 and entered the second floor apartment.)*

5. Police Officer Jonathan Nika, Shield No. 4579
   71st Precinct
   421 Empire Boulevard
   Brooklyn, New York 11225 (*responded to a radio call for additional units by Police Officer McCarthy on May 31, 2010.)*

6. Police Officer Wagner Lafleur, Shield No. 25792
   71st Precinct
   421 Empire Boulevard
   Brooklyn, New York 11225 (*responded to a radio call for additional units by Police Officer McCarthy on May 31, 2010.)*

Please do not hesitate to contact me at (212) 788-0823 should you have any questions or concerns.

Sincerely,

/s/

Philip R. DePaul
Assistant Corporation Counsel
Special Federal Litigation Division

Exhibit C

CRIMINAL COURT OF THE CITY OF NEW YORK
PART APAR COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK

V

MAURICE PHILLIPS

STATE OF NEW YORK
COUNTY OF KINGS

POLICE OFFICER PAUL V. MCCARTHY SHIELD NO.21020, OF 071 COMMAND SAYS THAT ON OR ABOUT MAY 31, 2010 AT APPROXIMATELY 01:00 PM AT 334 LEFFERTS AVENUE COUNTY OF KINGS, STATE OF NEW YORK,

THE DEFENDANT COMMITTED THE OFFENSE(S) OF:

PL 195.05	OBSTRUCTING GOVERNMENTAL ADMINISTRATION IN THE SECOND DEGREE
PL 205.30	RESISTING ARREST

IN THAT THE DEFENDANT DID:

INTENTIONALLY OBSTRUCT, IMPAIR OR PERVERT THE ADMINISTRATION OF LAW OR OTHER GOVERNMENTAL FUNCTION OR PREVENT OR ATTEMPT TO PREVENT A PUBLIC SERVANT FROM PERFORMING AN OFFICIAL FUNCTION, BY MEANS OF INTIMIDATION, PHYSICAL FORCE OR INTERFERENCE, OR BY MEANS OF ANY INDEPENDENTLY UNLAWFUL ACT, OR BY MEANS OF INTERFERING, WHETHER OR NOT PHYSICAL FORCE IS INVOLVED, WITH RADIO, TELEPHONE, TELEVISION OR OTHER TELECOMMUNICATIONS SYSTEMS OWNED OR OPERATED BY THE STATE, OR A COUNTY, CITY, TOWN, VILLAGE, FIRE DISTRICT OR EMERGENCY MEDICAL SERVICE; INTENTIONALLY PREVENT OR ATTEMPT TO PREVENT A POLICE OFFICER OR PEACE OFFICER FROM EFFECTING AN AUTHORIZED ARREST OF HIMSELF OR ANOTHER PERSON.

THE SOURCE OF DEPONENT'S INFORMATION AND THE GROUNDS FOR DEPONENT'S BELIEF ARE AS FOLLOWS:

DEPONENT STATES THAT, AT THE ABOVE TIME AND PLACE, DEFENDANT DID PREVENT DEPONENT FROM ENTERING THE ABOVE MENTIONED LOCATION WHICH DEPONENT WAS ATTEMPTING TO ENTER SO AS TO INVESTIGATE WHETHER AN ASSAULT OR DISPUTE WAS IN PROGRESS. DEPONENT FURTHER STATES THAT DEFENDANT DID PREVENT DEPONENT FROM ENTERING THE ABOVE MENTIONED LOCATION BY BLOCKING THE DOORWAY WITH DEFENDANT'S BODY AND YELLING AT DEPONENT IN SUM AND SUBSTANCE, "FUCK YOU, GET."

DEPONENT FURTHER STATES THAT AT THE ABOVE TIME AND PLACE, DEFENDANT DID FLAIL DEFENDANT'S ARMS AND DID WRESTLE WITH DEPONENT WHEN DEPONENT ATTEMPTED TO PLACE DEFENDANT UNDER LAWFUL ARREST FOR OBSTRUCTING DEPONENT'S INVESTIGATION.

FALSE STATEMENTS MADE IN THIS DOCUMENT ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.

05/31/10 P.O. McCarthy

DATE SIGNATURE

5/31/2010 7:40:13 PM K10652679 Arrested: 05/31/2010 13:13

NYC10

Exhibit D

OFFICE OF THE DISTRICT ATTORNEY, KINGS COUNTY
RENAISSANCE PLAZA at 350 JAY STREET
BROOKLYN, N.Y. 11201-2908
(718) 250-2000

CHARLES J. HYNES
District Attorney

Complaint Room Screening Sheet

Screener: **Susan Park**
Screening date: **May 31, 2010**
180.80 Date:
GJ Date: GJ Time:

Bureau: **Trial Bureau 4 - Green**

Narcotics: N

Defendants

Name - Last, First	Arrest Number	Sex	DOB	Age	Complaint/DP	Class	
PHILLIPS, MAURICE	K10652679	M	[redacted]	021	1	Misdemeanor	NON Grar

Gang member ☐

TPOs

	Date/Time		Place	PCT	Near School (If narcotics sale)
1	05/31/10 13:00	to:	334 LEFFERTS AVENUE	071	☐

Arrests

Defendant	Date/Time	Place
PHILLIPS, MAURICE	05/31/10 13:13	334 LEFFERTS AVENUE

Circumstances:
Arrest Charges: PL 1950500

Complaint Charges

PHILLIPS, MAURICE TPO 1 PL 195.05, PL 205.30

OGA AND RESISTING ARREST

AT TPO, WHICH IS NYCHA HOUSING, AO WHILE ON PATROL HEARD LOUD, YELLING NOISES COMING FROM AN APARTMENT. WHEN AO APPROACHED THE APT, AO SAW THAT THE DOOR WAS AJAR AND AO THOUGHT AN ASSAULT OR DISPUTE WAS IN PROGRESS.

WHEN AO ENTERED THE NYCHA APARTMENT TO INVESTIGATE WHETHER SOMEONE WAS BEING ASSAULTED, DEFT WHO WAS INSIDE THE APT BLOCKED AO FROM ENTERING AND YELLED AT AO TO GET OUT OF THE APARTMENT.

WHEN AO ATTEMPTED TO PLACE DEFT UNDER ARREST FOR OGA, DEFT WRESTLED WITH AO AND FLAILED DEFT'S ARMS AND HELD ONTO A POLE IN THE APT.

DEFT STATED IN SUM AND SUBSTANCE TO AO 'FUCK YOU, GET OUT.'

Statements

Defendant	Date/Time	Place	Statement Made To	Form of Stmt.
PHILLIPS, MAURICE	5/31/10 13:13	334 LEFFERTS AVE.	PAUL MCCARTHY, shield:21020, CMD:071	Oral

Circumstances:
After Miranda Rights ; Given By:
DEFT STATED IN SUM AND SUBSTANCE "FUCK YOU, GET OUT."

PAUL MCCARTHY (Assigned PO) Interview: In Person
If No Interview - Reason:

st Numbers: K10652679
nted 5/31/2010